

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Justin J. Dekker,

APPLICATION TO REOPEN CASE

Debtor.

BKY 18-40978

Justin J. Dekker, Debtor, pursuant to 11 U.S.C. §350 (b), Federal Rule of Bankruptcy Procedure 5010, and Local Rule 5010-1, requests the Court to reopen Debtor's bankruptcy case and in support thereof states as follows:

1. This Chapter 7 bankruptcy case was commenced by the filing of a voluntary Chapter 7 petition on March 29, 2018, by the Debtor.
2. The Debtor was granted a discharge on July 5, 2018.
3. The Chapter 7 trustee filed a Report of No Distribution on August 3, 2018.
4. The case was closed on August 3, 2018.
5. At the time of filing Debtor owned a homestead located at 6701 Field Way, Edina, Minnesota with his spouse and valued by the Hennepin County Treasurer at \$602,000, subject to a first mortgage serviced by CitiMortgage in the estimated amount of \$350,000 and a second mortgage held by U S Bank in the estimated amount of \$227,000.
6. The Debtor defaulted on his first mortgage, and in 2019, CitiMortgage executed a Notice of Pendency of Proceeding and Power of Attorney to Foreclose Mortgage,

which was recorded in Hennepin County. Eventually a foreclosure sale of the Debtor's homestead was scheduled for January 12, 2021.

7. To defend against the foreclosure, the Debtor retained other counsel in 2020. In the course of defending against the foreclosure and with the assistance of his new, foreclosure-defense counsel, the Debtor determined that CitiMortgage and other parties had violated 12 C.F.R. Part 1024, Real Estate Settlement Procedures Act (Regulation X), and other laws related to the servicing of the Debtor's mortgage. While most of the violations occurred after the filing of his Chapter 7 case, the Debtor, assisted by his new counsel, now believes that some of CitiMortgage's conduct prior to the Chapter 7 filing constitute violations. No determination of the cause of action has been made as of the date of this application.
8. The Debtor wishes to reopen his Chapter 7 case in order to amend his petition schedules and advise the Chapter 7 trustee and other interested parties accordingly. A trustee needs to be appointed to represent the estate's interest in the ongoing litigation.

WHEREFORE, Debtor respectfully requests the Court to reopen his bankruptcy case and for such other relief as is appropriate.

Dated: 2/3/2022

/e/ Michael K. Hoverson
Hoverson Law Offices, P.A.
By: Michael K. Hoverson
300 Union Plaza
333 Washington Ave. North
Minneapolis, MN 55401
(612) 349-2728
Attorney ID: 175948
Attorney for Debtor

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Justin J. Dekker,

Debtor.

Bky. Case No. 18-40978

MEMORANDUM OF LAW

Debtor had a right, or a potential right, to bring claims against CitiMortgage and other parties for violations of 12 C.F.R. Part 1024, Real Estate Settlement Procedures Act (Regulation X), and other laws related to the servicing of Debtor's mortgage, at the time of his chapter 7 filing. He did not know this at that time. Litigation is now pending in United States District Court, District of Minnesota. A trustee needs to be appointed to represent the estate's interest in the ongoing litigation. Debtor has asked permission to reopen his case and have a trustee appointed.

ARGUMENT

11 U.S.C. §350(b) provides that a case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause. Local Rules 5010-1(c) and 9013-4(c), and local practice, permits a request to reopen to be made by application. The Debtor has made a proper application to reopen, and has served all appropriate parties. His request is not prohibited by any means.

Debtor's application should be granted.

Dated: February 3, 2022

/e/Michael K. Hoverson
Hoverson Law Offices, P.A.
BY: Michael K. Hoverson
Attorney for Debtor
300 Union Plaza
333 Washington Ave. N.
Minneapolis, MN 55401
(612)349-2728
Attorney ID: 175948

**UNITED STATES BANKRUPTCY COURT
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ORDER GRANTING APPLICATION TO REOPEN CASE

This matter came before the court on the application of debtor to reopen his case. The court now orders:

1. Debtor's application is GRANTED.
2. The above entitled case shall be reopened and a trustee appointed.

Dated: _____

Judge of Bankruptcy Court

UNSWORN CERTIFICATE OF SERVICE

February 3, 2022

RE: Justin J. Dekker
Chapter 7 Case No. 18-40978

I certify that on February 3, 2022, I caused the attached letter(s) and documents to be served on the party(ies) named in the attached letter on the above-mentioned date, by placing true and correct copies thereof in envelopes addressed to each party listed on the attached letter and deposited the same in the United States Mail, Minneapolis, Minnesota.

Dated: February 3, 2022

/e/ Michael K. Hoverson
Hoverson Law Offices, P.A.
Attorney for Debtor
333 Washington Avenue N., Suite 300
Minneapolis, MN 55401
(612) 349-2728
Attorney I.D. No. 175948

February 3, 2022

United States Trustee
300 S. 4th Street, #1015
Minneapolis, MN 55415

RE: Justin J. Dekker
Chapter 7 Case No. 18-40978

Enclosed herein and served upon you by U.S. Mail please find **APPLICATION TO REOPEN CASE, MEMORANDUM OF LAW, and proposed ORDER GRANTING APPLICATION TO REOPEN CASE**, regarding the above-mentioned matter.

Sincerely,

/e/Michael K. Hoverson

Michael K. Hoverson
Attorney at Law

enclosure

cc: Justin J. Dekker